

August 23, 1991

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

SEWTECH ENGINEERING, INC., V. CITY OF SAN DIEGO, ET AL.
SAN DIEGO SUPERIOR COURT CASE NO. 575232

The City of San Diego recently prevailed in a lawsuit brought by Sewtech Engineering, Inc., challenging the constitutionality of several provisions of the San Diego Sign Ordinance (San Diego Municipal Code sections 101.1100, et seq.).

Sewtech is a business that rents out and erects large balloons, or inflatable displays. The displays have been utilized almost exclusively for commercial advertising purposes. In 1986 a criminal complaint was filed charging Sewtech with several violations of the Ordinance, including rooftop mounting of an inflatable display. This civil action followed.

Sewtech claimed that the restrictions on erecting inflatable displays ran afoul of the United States Constitution by violating the free speech provisions of the first amendment and the due process and equal protection clauses of the fourteenth amendment. Sewtech sought to have its large three-dimensional displays treated the same as flags or signs that are allowed on the tops of buildings.

The case was tried before the Honorable Mack P. Lovett, Judge of the Superior Court. Judge Lovett held that the Ordinance did not run afoul of the first amendment, in that it satisfied all the prongs of a four-part test adopted by the Supreme Court to determine the validity of government restrictions on commercial speech. Judge Lovett quickly dispatched the equal protection and due process arguments of Sewtech, holding that flags can be treated differently than inflatable displays, and that the Ordinance was not vague.

Deputy City Attorney Mark Stiffler tried the case on behalf of The City of San Diego.

Respectfully submitted,
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City Attorney

MS:tmv:Lit.
RC-91-42